

# Notice of Allowability

Application No.

10/664,292

Examiner

Michael C. Miggins

Applicant(s)

RULE ET AL.

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## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course: **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/17/2003.
2. ☒ The allowed claim(s) is/are 21-29, 31, 33-36, 39 and 40.
3. ☒ The drawings filed on 17 September 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 12/8/2003
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 06282004.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Peter Papas on 6/28/2004.

The application has been amended as follows:

#### **In the specification:**

The amendment to the specification set forth in the preliminary amendment of 9/17/2003 on page 2 only has been canceled.

In the specification, page 1, line 4, the sentence - - This application is a divisional of U.S. Patent Application Serial No. 09/645,639, filed August 24, 2000, now U.S. Patent No. 6,720,052. - -

#### **In the claims:**

In claim 21, at the beginning of line 2, before "a multilayer" the term "though" has been deleted and the term - - through - - has been inserted in place thereof.

In claim 21, line 2, after "multilayer rigid" and before "container body" the term - - beverage - - has been inserted.

In claim 21, at the end of line 5, after "a water soluble" the phrase - - gas barrier - - has been inserted.

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In claim 21, line 6, after "compound" and before "the permeability" the phrase "capable of reducing" has been deleted and the phrase - - which reduces - - has been inserted in place thereof.

In claim 21, line 7, after "evaporating the water" and before "a top coat" the phrase ", so as to form" has been deleted and the phrase - - thereby forming - - has been inserted in place thereof.

In claim 21, lines 7-8, after "oxide barrier layer" and before "the pinholes" the phrase "at least partially disposed in" has been deleted and the phrase - - wherein the top coat substantially fills - - has been inserted in place thereof.

In claim 39, line 6, after "water soluble" and before "compound" the phrase - - gas barrier - - has been inserted.

In claim 39, line 6, after "compound" and before "the permeability" the phrase "capable of reducing" has been deleted and the phrase - - which reduces - - has been inserted in place thereof.

In claim 39, line 8, after "evaporating the water, " and before "a top coat" the phrase "so as to form" has been deleted and the phrase - - and thereby - - has been inserted in place thereof.

In claim 39, lines 8-9, after "barrier layer" and before "the pinholes" the phrase "at least partially disposed in" has been deleted and the phrase - - wherein the top coat substantially fills - - has been inserted in place thereof.

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In claim 39, line 9, after "pinholes and" and before "the water soluble" the term "comprising" has been deleted and the term - - comprises - - has been inserted in place thereof.

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

With regard to instant claims 21 and 39, the prior art does not teach a method for reducing the permeability of vapor or gas through a multilayer rigid beverage container body comprising a polymeric base layer and an inorganic oxide gas barrier layer having pinholes on the base layer the method comprising applying to the barrier layer an aqueous solution comprising water and a water soluble gas barrier compound which forms a top coat, wherein the top coat substantially fills the pinholes and the top coat comprises the water soluble compound.

The closest prior art is Kaiho et al. (U.S. Patent No. 4,528,234) and Akao et al. (EP Patent Application 0 507 351 A2) both references were provided by applicant in the IDS of 12/8/2003. Kaiho et al. disclose a method for forming a transparent laminate used for food packaging comprising a polymeric base layer, an inorganic oxide barrier layer and a top coat comprising a water soluble compound (column 1, lines 4-6, column 3, line 60 through column 4, line 43). Akao et al. teach a method of forming a package for use in packaging for photosensitive materials comprising a polymeric base layer, a metallic barrier layer and a water soluble top coat (page 6, line 49 through page 7, line 28). Neither reference teaches a method for reducing the permeability of vapor or

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gas through a multilayer rigid beverage container, the method comprising applying to the barrier layer an aqueous solution comprising water and a water soluble gas barrier compound which forms a top coat, wherein the top coat substantially fills the pinholes and the top coat comprises the water soluble compound

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is (571) 272-1494. The examiner can normally be reached on Monday-Friday; 1:30-10:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pyon Harold can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MCM *[Signature]*  
June 28, 2004

*[Signature]*  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

7/9/04